

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

PHILLIP HERNDON,

Petitioner,

v.

Civil Action No. 2:09-12213  
Honorable Patrick J. Duggan

CINDI CURTAIN,

Respondent.

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**ORDER DENYING PETITIONER'S MOTIONS  
FOR EQUITABLE TOLLING AND TO SUPPLEMENT**

At a session of said Court, held in the  
U.S. District Courthouse, Eastern District  
of Michigan on July 1, 2009.

PRESENT: HONORABLE PATRICK J. DUGGAN  
U.S. DISTRICT COURT JUDGE

This matter is before the Court on Petitioner's motion for equitable tolling to allow him to proceed on his petition for writ of habeas corpus as timely filed under the one-year statute of limitations applicable to federal habeas actions, as well as his motion to supplement that pleading with a psychological report (which he has not attached). Respondent has not yet filed an answer to the habeas petition, nor has Respondent submitted the relevant state court record. Those materials are due on December 14, 2009. Accordingly, the Court **DENIES** without prejudice Petitioner's motions for equitable tolling and to supplement that motion. The Court shall consider the timeliness of the petition once Respondent's answer is filed. Petitioner need not file another motion

concerning this issue, although he may respond to any statute of limitations defense raised by Respondent in accordance with the Federal Rules of Civil Procedure and this Court's Local Rules.

**SO ORDERED.**

s/PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE

Copy to:  
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